



## ***Planning Commission Meeting Minutes***

DATE: December 15, 2009

APPROVED BY: *ju3*

### **MINUTES OF THE LAKE COUNTY PLANNING COMMISSION November 24, 2009**

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chairman Siegel called the meeting to order at 7:00 p.m.

#### **ROLL CALL**

The following members were present: Messrs. Adams, Brotzman, Klco (alt. for Troy), Morse, Schaedlich, Siegel, Zondag and Mmes. Hausch and Pesec. Staff present: Messrs. Boyd, Radachy, and Ms. Truesdell.

#### **MINUTES**

There were two corrections to the September 29, 2009 minutes. Page 2, last paragraph should read "questioned" instead of "question". On page 4, 4<sup>th</sup> paragraph, "is" should be "are".

Ms. Hausch moved and Mr. Schaedlich seconded the motion to approve the September 29, 2009 minutes.

All voted "Aye."

#### **FINANCIAL REPORT**

Mr. Schaedlich moved and Mr. Klco seconded the motion to approve the September, 2009 Financial Report.

All voted "Aye."

Mr. Morse moved and Mr. Adams seconded the motion to approve the October, 2009 Financial Report.

All voted "Aye."

#### **2010 Temporary Budget**

Mr. Boyd explained that the temporary budget for 2010 was received and he was pleased that current staff levels can be maintained but there is a decrease in operating

expenses. At the end of 2010 our budget will be reduced by 31% from 2006 levels. He was very satisfied with the budget and he and Mr. Radachy will continue to pursue grant opportunities. They will be assisting Willoughby with a zoning ordinance for \$3,500.00. A \$100,000.00 grant is pending with the Ohio Lake Erie Commission that was co-authored with Soil and Water Conservation District which will bring in about \$20,000.00 over the next two years for our department. This will help cushion the lack of subdivision revenues and will be deposited to the general fund. We also wrote a \$7,000.00 proposal for Madison Village. The increase of 4% in health insurance was not deferred to the employees so that is an indirect increase.

#### PUBLIC COMMENT

There was no comment from the public.

#### LEGAL REPORT

Eric Condon, Assistant Prosecutor, said that he and Mr. Boyd conferred about preliminary clearing and grading and the Employee Handbook.

#### DIRECTOR'S REPORT

Mr. Boyd said that the Mentor Comprehensive plan was approved by the Municipal Planning Committee and will go to Council. We received \$5,000.00 for the project. We assisted Madison Township with a proposal for a beach enhancement at Township Park. We will host a training seminar for the 2010 census to inform community leaders about the importance of getting as many people counted as possible. The U. S. Census Bureau will lead the training exercise.

#### ANNOUNCEMENTS

There were no announcements.

#### SUBDIVISION REVIEW

There were no subdivisions submitted for review.

#### Subdivision Activity Report

Mr. Radachy reported that Cambden Creek, Phase II will be coming into maintenance in the next few weeks. The maintenance bond will be released for Mountainside Farms 3A. Orchard Springs will be undergoing a delay in installing electrical and filing the plat. Maplevue Subdivision in Painesville Township, a FPUD has been acquired by a bank and they have contacted us about finishing the development.

#### LAND USE AND ZONING REVIEW

#### Concord Township – Proposed Rezoning of 16.1 acres from R-1 to R-3.

Mr. Radachy said the site under consideration is 16 acres on the corner of Prouty Road and Johnnycake Ridge Road (State Route 84). The developer, Ryan Sommers of Gray Fox Capital, LTD, requested that Permanent Parcel Numbers 08A-31C-1 and 10A-31C-8 be

rezoned from R-1 Residential District to R-3 Multi-Family District for a single family detached cluster dwelling project. Presently, they are allowed to put 16 duplexes with 32 units with each duplex having 1-acre of land. They are requesting to build 37 detached condominiums on the property along with 8 duplexes already on the property. There is a detention pond. There is one unit that has not been recorded.

Surrounding property is R-1 and some multi-family. 90% of the area is single family residential. The other uses in the area include duplexes, a fire station and an assisted living facility.

Concord Township Zoning Section 6.07 allows for more than one building to be built on a zoning lot of record. This section has been interpreted to allow duplexes to become condominiums throughout Concord Township. According to the Comprehensive Plan map, the area is to be single family and it encourages Residential Conservation Development (RCD). The Plan does call for a limited amount of small-scale cluster, attached and senior housing in areas served by sewer and water services and conveniently located to retail. The Plan also states that the site must meet four criteria. It must be a transitional use; it must be located adjacent to a major highway; it must be a constrained site; and, it must be in an area where the Township wishes to provide housing that supports a community town center or mixed use area. This was not a transitional site and is not adjacent to a highway. It is not part of a mixed use area. The plan is already approved for the duplexes.

Mr. Bob Walier of 6898 Arias Way, Concord Township, said that the ingress/egress road the developer is planning to use is a private road. There is also a private sewer system which is tied to a public sewer system. The developer did not show a 50-foot buffer area around the existing R-1 area. The aerial shows a proposed building over an area that drains into the detention pond.

Mr. Ryan Summers of Gray Fox Capital, Ltd. said they are requesting the zoning change because it is in conformance with the Comprehensive Plan, and, because it is zoned for R-1 where low-density is not likely to develop. The site is serviced by public utilities, and the project will meet minimum required setbacks. He said that the reason for the R-3 request is the success of the property they are developing near St. Gabriel's next to the Concord Plaza. He is proposing detached cluster homes zoned R-3 because they are very well received. In the proposed plan, the drainage easement is not there, the sanitary easement is not there. There is an easement that goes through the private drive but there is no easement for a connection to the sanitary line. They did not want to proceed with the duplex plan because the bank is trying to sell duplexes in Aria's Way for forty to fifty thousand dollars below cost and cannot do so. As part of the official application, the developer agreed to deed restrict the property to not allow apartments and attached multi-family. He is seeking to redevelop the site to have a product that will sell. Conservation zoning cannot be done because Concord requires 20 acres and they only have 16.1 acres. It would require a rezoning and a variance on the acreage. There are no detached fee-simple lots which would have different requirements.

Staff recommended that the Township not accept the zoning district change because it did not conform to the 2004 Concord Township Comprehensive Plan. It does not meet the criteria for the smaller scale cluster use as defined in the Plan. The density of R-3 would be too

great for the neighborhood and all the uses allowed in R-3 would be allowed including the attached unit option.

Mr. Summers said they were open to deed restrictions or conditional approval, limiting density and having attached units. He is looking for a way to proceed where all the stakeholders are satisfied.

Mr. Adams reminded Mr. Summers that however we vote, it is strictly a recommendation to the Township.

Mr. Adams moved and Mr. Schaedlich seconded the motion to accept the recommendation of the Land Use and Zoning Committee and staff to not recommend approval of 16.1 acres of permanent parcel numbers 08A-31C-1 and 10A-31C-8 to be rezoned from R-1, Residential District, to R-3, Multi-Family District, in Concord Township.

Eight voted "Aye".  
One voted "No."

## REPORTS OF SPECIAL COMMITTEES

### Lake County Coastal Plan Committee

Mr. Boyd said that the Committee met in Madison last week to view the \$50,000 bathymetry analysis funded by the Port Authority.

## CORRESPONDENCE

There was no correspondence.

## OLD BUSINESS

### Review of County Agency Meeting on Varying Preliminary Clearing and Grading

Mr. Boyd said that since June 2003, our policy has been to allow a developer to clear the rights-of-way areas without a variance from the board. The June 2003 Planning Commission minutes also note this policy should have been incorporated into the Subdivision Regulations. This never occurred. The variance is only required when the applicant wants to begin moving dirt, which would be considered grading and, as noted in Article I, Section IV, B, cannot begin until the "improvement plans for the subdivision are approved, and properly endorsed..."

A hardship is needed to grant a variance. Typically, that hardship is the onset of winter weather. To accommodate the Board's request to review the policy on preliminary clearing and grading, Mr. Boyd called on the Engineer's Office and the Soil and Water Conservation District.

One alternative is to handle this administratively, in house, as we do with lot splits. The development community would have to adhere to a set of criteria such as submittal of preliminary improvement plans and a final plat approved by this Board. This may be user-friendly to them.

Matt Scharver of the SWCD said that the District is comfortable with the way it is now. Presently, the developer has to have an Erosion and Sediment Control Plan submitted and approved by SWCD. This is not done until they are at the final stage and done in concert with the County Engineer and Sanitary Engineer. The restrictions of having temporary approval would encumber the County because they would have to review and approve temporary plans so the developer could have a few extra weeks to start early. And the developer would have to pay his consultants to have plans drafted. He would like to have it remain as it is.

Mr. Boyd said that we can let them clear without a variance, but at the point where they want to get equipment in there and clear the top soil layer, they would still have to get a permit from SWCD. If we grant a variance or administrative approval, they would still need a permit from SWCD to proceed with the work.

Mr. Zondag clarified that SWCD would be the oversight agency for clearing.

Ms. Pesec said this would create duplicate work. It should be up to the developer to manage the project in a timely manner. Another concern would be that this would increase requests because they do not have to pay a fee. If we continue to deny those variances, the developer will not look at it as an easy out. She appreciated the effort the agencies put forth to figure this out.

Mr. Boyd said another consideration is the timing of the Planning Commission meeting with the weather.

Mr. Condon said it is not necessary to design everything around the nightmare scenario and if that happened, he did not see them getting heavily fined.

Mr. Zondag said it is important to stress the meeting schedule and due dates to developers when they get started.

Mr. Condon said if they had everything ready with three weeks to go, they probably were one or two signatures short with four weeks to go and they could be at that meeting.

Mr. Zondag asked if they come in with one signature short but will be ready before the next meeting, could we vote to allow them to go ahead as soon as that signature occurs? Could we pass it with the contingency that, if they get that signature then Mr. Boyd and staff could permit this to happen?

Mr. Radachy discussed the hierarchy to signing the improvement plans. First to sign is SWCD, then the County Engineer, Fire Chief, Township Trustees, then the Sanitary Engineer. It comes back to the Planning Commission and the last signature is the Commissioners. Usually when it gets to the Commissioners, there is a seven-day period which can be waived by the township. It would be easier to have the township waive the seven-day notice and it can go on the agenda of the next Commissioners meeting. Usually, with the Commissioners, it is a week and a half, at most, before they sign the plat. If the Sanitary Engineer does not sign, it is because the OEPA has not issued their certificate yet.

Mr. Brotzman asked what the developer claims they do not have time to do.

Mr. Scharver said it is mulching, setting traps, inland protection, requirements that are above and beyond normal measures.

Mr. Radachy said the developers of Orchard Springs wanted to get the road paved prior to the close of asphalt plants for the winter.

Mr. Condon said we are putting this under the microscope to bail people out. We are getting into their personal economic situation. There is only a \$500.00 fine.

Mr. Adams asked what would be a legitimate reason to grant a variance of this type that was not attributable to the developer?

Topography, the Indiana bat, removing trees prior to a certain date, were reasons variances were granted.

Mr. Boyd said weather determination is subjective.

Mr. Zondag said he would leave this as is.

Mr. Boyd said this is the only variance that can authorize work in the field before the plat is completed. Every other variance is a design issue.

Mr. Radachy said he was concerned that there is nothing to stop them from doing an actual grade after they removed the stumps. His only course of action is to report it at the next Planning Commission meeting. It would then have to be turned over to the prosecutor with time elapsing.

The Planning Commission determined that they would not take action on preliminary clearing and grading variance policy.

#### Employee Policy and Procedures Handbook

Mr. Boyd said that Mr. Condon and an intern reviewed this policy.

Ms. Pesec moved and Mr. Schaedlich seconded the motion to approve the Employee Policy and Procedures Handbook.

All voted "Aye."

#### NEW BUSINESS

Mr. Siegel asked if anyone objected to employees using a personal day and closing the office on the day after Thanksgiving.

No one expressed any objection.

Ms. Hausch moved and Mr. Schaedlich seconded the motion to approve of employees using personal time and closing the office the Friday after Thanksgiving day.

All voted "Aye."

## PUBLIC COMMENT

There was no comment from the public comment.

## ADJOURNMENT

Mr. Morse moved and Mr. Zondag seconded the motion to adjourn the meeting.

All voted "Aye."

The meeting adjourned at 8:09 p.m.